

Introduced by Senator Brulte
(Coauthor: Assembly Member Correa)

January 7, 2002

An act to amend Section 298.1 of the Penal Code, relating to criminal identification.

LEGISLATIVE COUNSEL'S DIGEST

SB 1242, as introduced, Brulte. Criminal identification: specimen or sample collection: use of reasonable force.

Existing law makes it a misdemeanor for persons convicted of specified offenses to refuse or fail to provide 2 specimens of blood, a saliva sample, and a thumb and palm print impression for law enforcement identification analysis after receiving written notice of the requirement to do so.

This bill would provide that, notwithstanding the above, authorized law enforcement, custodial, or corrections personnel, including specified peace officers, may employ reasonable force to collect required specimens, samples, or print impressions from individuals who, after request, refuse to provide those specimens, samples, or print impressions. The bill would provide immunity from civil or criminal liability to any individual, agency, or department for the good faith use of reasonable force in the collection of required specimens, samples, or print impressions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 298.1 of the Penal Code is amended to read:

298.1. (a) As of the effective date of this chapter, any person who refuses to give any or all of the following, blood specimens, saliva samples, or thumb or palm print impressions as required by this chapter, once he or she has received written notice from the Department of Justice, the Department of Corrections, any law enforcement personnel, or officer of the court that he or she is required to provide specimens, samples, and print impressions pursuant to this chapter is guilty of a misdemeanor. The refusal or failure to give any or all of the following, a blood specimen, saliva sample, or thumb or palm print impression is punishable as a separate offense by both a fine of five hundred dollars (\$500) and imprisonment of up to one year in a county jail, or if the person is already imprisoned in the state prison, by sanctions for misdemeanors according to a schedule determined by the Department of Corrections.

(b) (1) *Notwithstanding subdivision (a), authorized law enforcement, custodial, or corrections personnel, including peace officers as defined in Sections 830, 830.1, 830.5, and 830.55, or subdivision (d) of Section 830.2, may employ reasonable force to collect blood specimens, saliva samples, or thumb or palm print impressions pursuant to this chapter from individuals who, after written or oral request, refuse to provide those specimens, samples, or thumb or palm print impressions.*

(2) *The withdrawal of blood shall be performed in a medically approved manner in accordance with the requirements of paragraph (2) of subdivision (b) of Section 298.*

(3) *Any individual, agency, or department subject to paragraph (1) shall not incur civil or criminal liability for the good faith use of reasonable force in the collection of blood specimens, saliva samples, or thumb or palm print impressions pursuant to this chapter.*